

FAX MESSAGE FROM:

Law Offices of
SCHNECK & SCHNECK
P.O. Box 2-E
SAN JOSE, CALIFORNIA 95109-0005

RECEIVED
CENTRAL FAX CENTER

NOV 16 2006

80 S. Market Street
Third Floor
San Jose, California 95113-2303

TELEPHONE:(408) 297-9733

FAX:(408) 297-9748

EMAIL:WEBMAIL@PATENTVALLEY.COM

DATE: November 16, 2006
TO: U.S. Patent and Trademark Office
ATTN: Examiner Thinh T. Nguyen - Group Art Unit 2818
FAX NO.: (571) 273-8300
REF.: ATM-291 (U.S. Serial No. 10/810,035)

**THIS MESSAGE CONSISTS OF
THIS COVER SHEET PLUS 2 OTHER PAGES.**

Dear Sir:

Following is a "Response to Restriction Requirement" dated today, November 16, 2006 regarding the above-referenced patent application.

Respectfully submitted,

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being facsimile transmitted to: Examiner Thinh T. Nguyen, Fax No. 571-273-8300, U.S. Patent and Trademark Office on the date shown below.

Signed: Thomas P. Schneck

Typed Name: Thomas P. Schneck THOMAS SCHNECK

Date: November 16, 2006


Thomas Schneck

Reg. No. 24,518

Schneck & Schneck

P.O. Box 2-E

San Jose, CA 95109-0005

(408) 297-9733

Confidentiality Note

This facsimile may contain material that is confidential, privileged and/or attorney work product for the sole use of the intended recipient. Any review, reliance or distribution by others or forwarding without express permission is strictly prohibited. If you are not the intended recipient, please contact the sender and destroy all copies.

RECEIVED
CENTRAL FAX CENTER

NOV 16 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Albert S. Weiner

Serial No.: 10/810,035

Filed: March 26, 2004

Confirmation No.: 8458

For: NON-VOLATILE TRANSISTOR MEMORY ARRAY
INCORPORATING READ-ONLY ELEMENTS WITH
SINGLE MASK SET

PATENT APPLICATION

Group Art Unit: 2818

Examiner: T.T. Nguyen

Attorney Docket No.: ATM-291

Response to Restriction Requirement
with Traverse

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

In response to the Restriction Requirement in the Office action mailed 10/16/2006 from the Patent and Trademark Office regarding the above-identified patent application, Applicant elects to prosecute the invention of Group I (claims 1, 3-10) with traverse. Group II (claims 20-30) are withdrawn subject to traverse.

Reasons for Traverse

The Examiner notes that the technical features of Group I relate to a mask ROM with one memory state. With regard to Group II, the Examiner notes that the technical features of claim 20 relate to a mask ROM with two memory states.

Applicant respectfully points out that dependent claim 7 claims "a first subgroup of transistors in at least one row in a first logic state". Dependent claim 8, dependent upon claim 7, claims "a second subgroup of transistors in at

ATM-291 Response to Restriction Requirement

-2-

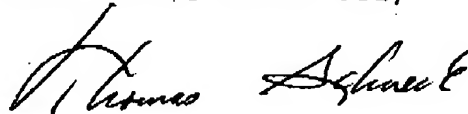
least one row in a second logic state". Accordingly, dependent claims 7 and 8 set forth read-only memory cells in two logic states. Claim 20 sets out mask programmed read-only memory transistors in two logic states. Mask programming is one approach for attaining read-only memory transistors. In other words, claim 20 is a species under claims 1, 6 and 7.

37 CFR 1.146 points that a restriction requirement is proper "in the first action on an application." This application has had a previous restriction requirement. Moreover, the claims that are being restricted were present when the prior Office action was issued and were first presented in an Amendment filed February 23, 2006 which was two amendments ago. Accordingly, the restriction is improper at this time.

Secondly, 37 CFR 1.146 further provides that a restriction is proper where there is a generic invention (genus) and claims to more than one patentably distinct species. Here, there is only a single species under the genus and so a restriction is improper.

Reconsideration of the restriction is requested.

Respectfully submitted,



Thomas Schneck
Reg. No. 24,518

Schneck & Schneck
P.O. Box 2-E
San Jose, CA 95109-0005
(408) 297-9733